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6 UNITED STATES DISTRICT COURT  
7 NORTHERN DISTRICT OF CALIFORNIA  
8 SAN JOSE DIVISION  
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10 DAVID HALTERMAN,  
11 Plaintiff,  
12 v.  
13 LEGATO SOFTWARE, a Division of EMC  
14 Corporation; EMC CORPORATION, dba  
15 EMC PERIPHERALS, INC., and DOES 1-X,  
16 Defendants.  
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Case No. C04-2660 JW

**STIPULATION AND [PROPOSED]  
ORDER REGARDING  
DEPOSITIONS PURSUANT TO  
FRCP 29**

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1 PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 29, Plaintiff David  
2 Halterman and Defendant EMC Corporation (collectively, "the parties") stipulate as follows:

3 WHEREAS, plaintiff David Halterman seeks to take more depositions than the  
4 limit of ten (10) pursuant to FRCP 30;

5 WHEREAS, defendant EMC Corporation opposes plaintiff's request for more than  
6 ten (10) depositions (excluding expert depositions);

7 WHEREAS, plaintiff seeks to take the deposition of Legato System Inc.'s former  
8 Chief Executive Officer, David Wright;

9 WHEREAS, defendant opposes plaintiff's request to take Mr. Wright's deposition;

10 WHEREAS, the parties have amicably negotiated in good faith regarding these  
11 discovery disputes; and

12 WHEREAS, the parties have agreed to the following;

13 IT IS HEREBY STIPULATED by and between the parties to this action through  
14 their designated counsel as follows:

15 1. plaintiff shall be permitted to take no more than four (4) additional  
16 depositions (other than expert depositions) for a maximum of fourteen (14) depositions in this  
17 case on the following conditions:

18 (a) in excess of ten (10) depositions permitted, plaintiff shall be  
19 permitted to take the deposition of Patty Peebles, Barbara Bakich and Noah Mesel at a mutually  
20 convenient time and location for the witnesses and counsel;

21 (b) plaintiff and defendant shall submit their discovery dispute  
22 regarding Legato's former CEO, David Wright, to the Court for resolution;

23 (c) if the Court grants plaintiff's motion to take Mr. Wright's  
24 deposition, then plaintiff shall be permitted to take fourteen (14) depositions;

1 (d) if the Court denies plaintiff's motion to take Mr. Wright's  
2 deposition, then plaintiff is restricted to thirteen (13) depositions set forth in paragraph 1(a),  
3 above, *i.e.*, plaintiff shall not substitute another individual in place of Mr. Wright.

Dated: July 20, 2005

Respectfully submitted,

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Dated: July 10, 2005

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 7/21/05

/s/ Patricia V. Trumbull

The Honorable Patricia Trumbull  
United States District Judge

## Magistrate